



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

February 25, 2013

RE: LORAIN COUNTY
PITTSFIELD TWP
CONSTRUCTION STORM WATER
QUARRY ROAD STORAGE LAGOON

NOTICE OF VIOLATION

Bruce Bailey
French Creek Bioenergy LLC
7624 Riverview Road
Cleveland, OH 44141

Dear Mr. Bailey:

On February 11, 2013, I conducted a compliance inspection of storm water best management practices (BMPs) at the above referenced site. I was accompanied by John Niedzialek of Lorain Soil & Water Conservation District (SWCD). No one was present on site during the time of inspection. Our records indicate that you received coverage under the Ohio EPA General National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Associated with Construction Activities #3GC06270*AG.

Our inspection revealed the following violations of the NPDES permit:

- **Failure to install sediment controls within seven days of first grubbing and prior to grading.** This is a violation of Part III.G.2.d.i of the NPDES permit and Ohio Revised Code 6111.04 and 6111.07. No sediment controls have been implemented on this site. Perimeter controls such as silt fence are needed to control runoff that flows to the east and south of the area of construction.
- **Failure to initiate temporary stabilization of areas disturbed by construction activity within seven days of last disturbance if they will remain idle for 21 days or longer.** This is a violation of Part III.G.2.b.i of the NPDES permit and ORC 6111.04 and 6111.07. Temporary stabilization has not been applied to any disturbed area of the site, yet the site has been idle since at least January 8, 2013, when Pittsfield Township Zoning issued a Cease & Desist Order. During winter, temporary stabilization can be achieved by applying straw mulch or erosion control matting over disturbed areas. If pond embankments are at final grade, a dormant seeding can be applied (see enclosure). It is my understanding that the Cease & Desist Order would not preclude French Creek Bioenergy from complying with requirements of the NPDES permit.

- **Failure to obtain approval of the Storm Water Pollution Prevention Plan (SWP3) prior to the start of construction activities as required under the Lorain County Erosion and Sediment Control Rules.** This is a violation of Part III.G.3 of the NPDES permit and ORC 6111.04 and 6111.07. Section 3.4 of the Lorain County Erosion and Sediment Control Rules prohibits any soil disturbing activities prior to obtaining plan approval from the Lorain Soil & Water Conservation District (SWCD). As of February 18, 2013, Lorain SWCD has not approved the erosion and sediment control plan and has identified a number of deficiencies in the plan submitted to them for review (see enclosure).

You are directed to provide me with a letter of response indicating the actions you will take to address these violations. Your response must be received **no later than March 11, 2013**. Once approved by Lorain SWCD, please submit a copy of the SWP3. Ensure the plan addresses both erosion and sediment control and post-construction water quality requirements of the NPDES permit.

Finally, I have yet to receive a post-construction BMP plan for the Anaerobic Digestion Facility at 2350 Abbe Road in Sheffield Village. Our records indicate that construction activities for this facility are authorized under the Ohio EPA General NPDES Permit for Construction Activities #3GC05641*AG. Part III.G.2.e of the NPDES permit requires the implementation of post-construction water quality practices for all permitted sites that create impervious area. A review of the SWP3 for the Anaerobic Digestion Facility indicates that no post-construction BMPs have been provided. Permanent vegetation is not a sufficient post-construction BMP to comply with NPDES permit requirements. I spoke to you about this deficiency via telephone on or about April 3, 2012. Because construction of the facility was completed by that point, you indicated that you would research your options for retrofitting the site to comply with the NPDES permit. **Please submit your plan for post-construction BMPs at the Anaerobic Digestion Facility with your response to this letter.** If an on-site retrofit is not feasible, Ohio EPA may allow off-site mitigation of post-construction requirements. Please review the requirements for off-site mitigation located on Page 24 of 40 of the Ohio EPA General NPDES Permit for Storm Water Associated with Construction Activities #OHC000003.

If you have any questions, please contact me at (330) 963-1145.

Sincerely,



Dan Bogoevski
District Engineer
Division of Surface Water

DB/cs

cc: Gerry Innes, Lorain County Prosecutor's Office
John Niedzialek, Lorain SWCD
Dan Shinsky, Pittsfield Twp Zoning
Trustees, Pittsfield Twp
Kenneth Kaczay, Storm Water Program Manager, Sheffield Village

QUARRY ROAD STORAGE LAGOON
Pittsfield Twp Lorain County

Photos Taken: February 11, 2013
By: Dan Bogoevski, DSW, NEDO



Fig 1. Panoramic view of the storage lagoon viewed from the SE corner looking NW. Construction appears to be largely complete, but pond embankments have not been stabilized.



Fig 2 & 3. Runoff from disturbed areas along the south (LEFT) and east (RIGHT) sides of the lagoon drain off site. No perimeter sediment controls have been provided. Disturbed areas have been idle for longer than 21 days yet, they have not been stabilized.

QUARRY ROAD STORAGE LAGOON

Photos Taken: February 11, 2013



Fig 4 (LEFT). The area to the east of the lagoon exhibits characteristics of wetlands. Fill may not be placed in a wetland without authorization from the Army Corps of Engineers and/or Ohio EPA.

Fig 5 (RIGHT). No perimeter sediment controls have been provided along the eastern perimeter of disturbance.